

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**HOANG V. HO**

Claimant

VS.

**DOLD FOODS**

Self-Insured Respondent

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Docket No. 1,012,871

**ORDER**

Claimant appealed the February 26, 2004, preliminary hearing Order entered by Administrative Law Judge Nelsonna Potts Barnes.

**ISSUES**

This is a claim for a June 26, 2002, accident. The issue presented to Judge Barnes at the February 26, 2004, preliminary hearing was whether claimant injured or aggravated his right hip in that accident. The Judge found claimant had avascular necrosis in the right hip before the June 2002 accident and that claimant had failed to prove the accident had aggravated or accelerated that preexisting condition.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the preliminary hearing record, the Board finds and concludes the preliminary hearing Order should not be disturbed. The Board agrees with the Judge that claimant, at this juncture of the claim, has failed to prove that his present right hip problems and present need for a right hip replacement are related to the June 2002 accident.

The record establishes that claimant had asymptomatic avascular necrosis in both hips before his June 26, 2002, accident at work. On that date, two pieces of meat fell from a hook and struck claimant on the left hip and ankle.

Claimant underwent a total left hip replacement in August 2002 and shortly afterwards experienced increased symptoms in his right hip, which claimant contends began hurting immediately after the June 2002 accident. Dr. Bernard Poole, the orthopedic surgeon who replaced claimant's left hip, has now determined the right hip needs to be replaced as the right femoral head has collapsed.

The preliminary hearing transcript contains medical records and notes from Dr. Poole and others. Unfortunately, those records do not directly address the principal issue in this claim of whether the June 2002 accident or resulting left hip surgery either aggravated or accelerated the preexisting hip condition or either accelerated or precipitated the need for surgery.

Claimant bears the burden of proof. And after considering this record, the Board concludes claimant has failed to satisfy that burden.

**WHEREFORE**, the Board affirms the February 26, 2004, preliminary hearing Order entered by Judge Barnes.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 2004.

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BOARD MEMBER

c: David L. Nelson, Attorney for Claimant  
Douglas D. Johnson, Attorney for Respondent  
Nelsonna Potts Barnes, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director